

From: [Elizabeth Goldmann](#)
To: [Goldmann, Elizabeth](#)
Subject: Fw: CMS New Assignment - Darren Reid - OW-08-001-0391
Date: Tuesday, October 25, 2016 12:05:29 PM
Attachments: [santa cruz owens.pdf](#)

Dear User

An email was sent to you from Lotus Domino containing special objects accessible only via Lotus Notes Client. The portion of the email that could be sent is included below.

If this is the first time you have received this type of message, [Click Here](#) for database access.

To access the original email with Lotus Notes please click this link -----> 

----- Forwarded by Elizabeth Goldmann/R9/USEPA/US on 10/25/2016 12:05 PM -----

Document Log Item			
Addressing			
From	To		
David Evans/DC/USEPA/US	Brian Frazer/DC/USEPA/US@EPA Donna Downing/DC/USEPA/US@EPA		
CC	BCC		
Robert Wood/DC/USEPA/US@EPA DavidW Smith/R9/USEPA/US@EPA Jessica Kao/R9/USEPA/US@EPA Gregory Peck/DC/USEPA/US@EPA Craig Hooks/DC/USEPA/US@EPA			
Description		Form Used:	
Subject	Date/Time		
Fw: CMS New Assignment - Darren Reid - OW-08-001-0391	08/11/2008 11:41 AM		
# of Attachments	Total Bytes	NPM	Contributor
1	141,998		Jessica Kao
Processing			
Comments			

▼ Body

Document Body

We have action to respond to the Aug. 7 letter from AZ DEQ Director clarifying that it is position of AZ that Santa Cruz should properly be designated a TNW, and that historic conclusions of the river's navigability at time of Statehood are not relevant to current CWA designation (see incoming attached). Response due for Ben's signature on Aug. 21 - please have a draft ready for me to load into CMS by Aug. 19th. We can discuss substance of response.

Dave

(See attached file: santa cruz owens.pdf)

David Evans, Director
Wetlands Division
Office of Wetlands, Oceans and Watersheds
(202) 566-0535

----- Forwarded by David Evans/DC/USEPA/US on 08/11/2008 02:37 PM -----

cmsadmin@epa.gov

08/11/2008 01:44 PM

To

David Evans/DC/USEPA/US@EPA, Christopher
Hunter/DC/USEPA/US@EPA, Robert
Wood/DC/USEPA/US@EPA, Stephanie
Noble/DC/USEPA/US@EPA, Sonia
Kassambara/DC/USEPA/US@EPA

cc

Subject

CMS New Assignment - Darren Reid - OW-08-001-0391

Control OW-08-001-0391 has been assigned to your office on 8/11/08 1:44 PM by Darren Reid. Please go to the CMS webpage to view the details of the control.

Summary Information -

Control Number: OW-08-001-0391

Control Subject: Traditional Navigable Water (TNW) Designation for the Santa Cruz River

From: Owens, Stephen (Steve) A.

Note: This Email was automatically generated. Please do not attempt to respond to it. You can access this control at <https://cms.epa.gov/cms>. Questions or comments concerning CMS should be directed to CMS Support at 202-564-4985 or CMS Information@epa.gov.



Lori Keyton/DC/USEPA/US
08/07/2008 12:51 PM

To :Diane Jones-Coleman/DC/USEPA/US@EPA
cc
bcc
Subject Fw: Santa Cruz River

please log in. thanks!

----- Forwarded by Lori Keyton/DC/USEPA/US on 08/07/2008 12:50 PM -----



"Joan Card"
<Card.Joan@azdeq.gov>
08/07/2008 12:32 PM

To <john.woodley2@hqda.army.mil>, Benjamin
Grumbles/DC/USEPA/US@EPA
cc
Subject Santa Cruz River

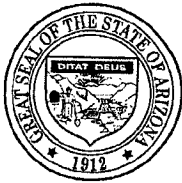
Please see the attached. Thank you.

*Joan Card, Director
Water Quality Division
Arizona Department of Environmental Quality
1110 W. Washington Street, Ste. 5000
Phoenix, AZ 85007
602-771-2303 or 602-771-2306
fax 602-771-4834*

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8708BH Grumbles.pdf



Janet Napolitano
Governor

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

1110 West Washington Street • Phoenix, Arizona 85007
(602) 771-2300 • www.azdeq.gov



Stephen A. Owens
Director

August 7, 2008

Mr. Benjamin H. Grumbles, Assistant Administrator
Office of Water
U.S. EPA
1200 Pennsylvania Avenue, NW, Mail Code 4101M
Washington, D.C. 20460

Dear Mr. Grumbles:

I am following up on our conversation on August 4 regarding the "Traditional Navigable Water" (TNW) designation for the Santa Cruz River made by the Los Angeles District Corps of Engineers (the District). As I indicated, the Arizona Department of Environmental Quality (ADEQ) supports the designation and appreciates the efforts of District regulatory staff to ensure Clean Water Act protections for the Santa Cruz River and its tributaries. We are deeply concerned that officials at the Army Corps of Engineers headquarters in Washington, D. C. are considering overturning the District's TNW determination for the Santa Cruz River. We urge the EPA to support the TNW designation.

ADEQ strongly opposes any effort to limit Clean Water Act jurisdiction over the Santa Cruz River and its tributaries. These important surface waters have been protected under the Clean Water Act at least since the 1972 Amendments. Significant issues have been created by the joint *Rapanos* Guidance issued by the Corps and EPA last summer, which inappropriately applies the holdings of the *United States v. Rapanos* Supreme Court decision to streams (the *Rapanos* holding is applicable to wetlands). The application of the *Rapanos* Guidance to tributary streams ignores longstanding Corps and EPA regulations and applicable case law and therefore violates the Clean Water Act.

You asked about the applicability of the findings of the Arizona Navigable Stream Commission to the Corps' TNW designation of the Santa Cruz River. In short, the Commission's findings and authorities relate solely to whether Arizona streams were navigable *in fact* at Arizona statehood in 1912 and have nothing to do with a finding of navigability under the Clean Water Act. As you know, the standard of navigability under the Clean Water Act is "waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce" See 33 CFR Section 328.3 and 40 CFR Section 230.3. The District's designation is consistent with the Clean Water Act standard. Any suggestion that the Arizona Commission's findings govern Clean Water Act jurisdiction is simply incorrect.

Northern Regional Office
1801 W. Route 66 • Suite 117 • Flagstaff, AZ 86001
(928) 779-0313

Southern Regional Office
400 West Congress Street • Suite 433 • Tucson, AZ 85701
(520) 628-6733

Mr. Benjamin Grumbles
August 7, 2008
Page 2 of 2

We continue to urge EPA and the Corps to rescind or revise the *Rapanos* Guidance, in accordance with our December 5, 2007 comments and this letter, to ensure that the Clean Water Act protections that have been in place in Arizona for the last 35 years remain in place.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen A. Owens". The signature is fluid and cursive, with the first name "Stephen" being the most prominent part.

Stephen A. Owens
Director

cc John Paul Woodley, Assistant Secretary, USACE